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DOCKET NO.: ISIS0173-100 (ISPH-0787) **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **Karras and Dobie**

Serial No.: **10/673,063** Group Art Unit: **1635**

Filed: **September 26, 2003** Examiner: **James Schultz**

Title: **Antisense Modulation Of MyD88 Expression**

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On 24 MARCH 2005

Paul K. Legaard Reg. No. 38,534

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RESPONSE TO RESTRICTION REQUIREMENT

The present paper constitutes a response to the Restriction Requirement dated December 28, 2004 in connection with the above-identified application. The period for responding to the Office Action has been extended, by enclosure of a petition and appropriate fee, to and through March 28, 2005.

Claims 1-15 are pending in the present application. Claims 1-15 have been subjected to a restriction requirement. Claim 1 recites three target regions: 1) nucleobases 220 through 257, 2) nucleobases 724 through 769, and 3) nucleobases 900 through 943. Applicants were requested to "elect one (1) target region and its corresponding antisense sequence from claim 1."

Applicants herein elect the target sequence of nucleobases 900 through 943, with traverse. Even if the Examiner still considers the target regions recited in claim 1 to be patentably distinct, §803 of the M.P.E.P. mandates two criteria for a proper requirement for

restriction: 1) the inventions must be independent or distinct; and 2) there must be a serious burden on the examiner. For purposes of initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in M.P.E.P. §808.02. Significantly, the Examiner has not met the *prima facie* burden. Indeed, the Examiner has not shown separate status in the art, a requirement for a different field of search, or different classification. Accordingly, all target regions recited in claim 1 should be examined in the present application without restriction.

In addition, Applicants' undersigned representative does not quite understand the reasoning for apparently requesting Applicants to elect, in addition to the target region, "its corresponding antisense sequence." Indeed, claim 1 (even in view of the present restriction) recites compounds that are 5 to 50 nucleobases in length and targeted to the elected region (i.e., nucleobases 900 through 943) of the nucleic acid molecule encoding MyD88 (SEQ ID NO:3). Examples of particular compounds that are targeted to the elected region are recited in claim 3 and include SEQ ID NOs: 73, 74, 75, 76, and 77. Applicants' election of the target region of nucleobases 900 through 943 should not be construed to embrace only one compound that comprises 44 nucleobases that is complementary to nucleobases 900 through 943.

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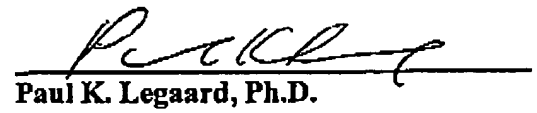
Applicants submit that the present response is complete and complies with the requirements of 35 U.S.C. §121. The Examiner is invited to contact Applicant's undersigned representative at (215) 665-6914 if there are any questions regarding Applicant's claimed invention. In addition, a new Power of Attorney will be forthcoming.

Respectfully submitted,



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Date: **24 March 2005**

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